



BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS



IN THE MATTER OF:

ERIC S.N. SANTOS,

Employee,

vs.

DEPARTMENT OF
CORRECTIONS,

Management.

ADVERSE ACTION
APPEAL CASE NO.: 18-AA12S

DECISION AND JUDGMENT

This matter came on before the Civil Service Commission (Commission) for Hearing on the Merits February 20, 25, 27, 2020 and November 29, 2022. Present for the final hearing were Department of Corrections (DOC) Director Robert Camacho appearing with counsel, Assistant Attorney General Donna Lawrence. Employee was present with his lay representative, Robert Koss. Commissioners

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1 present were Chairman Juan K. Calvo, Commissioner Priscilla T. Tuncap,
2 Commissioner John Smith, Commissioner Robert C. Taitano, and Commissioner
3 Francisco T. Guerrero. Chairman Calvo asked each Commissioner if they had
4 reviewed the videos of the three (3) previous hearings on this matter. Each responded
5 in the affirmative.

6 **INTRODUCTION**

7 Employee appeals to the Commission from a thirty-day (30) suspension for
8 insubordination. Employee got into an argument with his supervisor at a meeting
9 where the day's assignments were made. Employee was alleged to have been
10 verbally abusive and disrespectful.

11 **JURISDICTION**

12 The jurisdiction of the Commission is based upon the Organic Act and 4 GCA,
13 §4403 (b).

14 **BURDEN OF PROOF**

15 The Commission discussed the burden of proof. Management argued that the
16 actions of Employee would constitute the crime of disorderly conduct and therefore
17 the burden should be substantial evidence. The Commission noted that the event took
18 place inside the prison, not in public, and Employee did not threaten anyone with

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1 violence. The Commission voted 5 to 0 that the conduct of Employee did not rise to
2 the level of a crime and therefore, the burden of proof should be clear and convincing
3 evidence.

4 **FINDINGS OF FACT**

5 1. At the time of the adverse action Employee was a classified Employee of
6 the Department of Corrections.

7 2. On October 7, 2018, Employee attended a deployment meeting.

8 3. At this meeting Employee interrupted the duty officer protesting loudly his
9 assignment to Post #24, using foul language and questioning the competence of his
10 supervisor; stomped out of the meeting and then proceeded to continue his tantrum
11 outside the door.

12 4. Employee was suspended for thirty (30) days.

13 5. Employee appeals the adverse action.

14 **CONCLUSIONS OF LAW**

15 The Commission found that Management sustained its burden of proof by clear
16 and convincing evidence, however the Commission also found that thirty-(30)-days
17 suspension was too harsh a penalty. After discussing how many days would be
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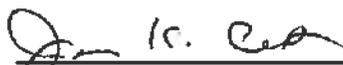
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1 appropriate, the Commission voted 5 to 0 to reduce the suspension to fifteen (15)
2 days.

3 Management shall immediately reduce the suspension to fifteen (15) days and
4 reimburse Employee any loss of wages and benefits beyond the fifteen-day (15)
5 suspension.

6 **SO ORDERED** this 24th day of January, 2023.

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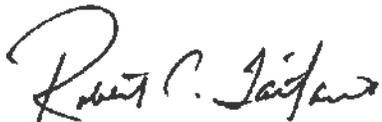
8 **JUAN K. CALVO**
Chairman



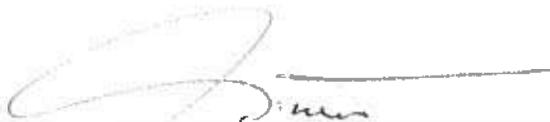
9 **ANTHONY P. BENAVENTE**
Vice Chairman

10 **PRISCILLA T. TUNCAP**
Commissioner

11 **JOHN SMITH**
Commissioner

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13 **ROBERT C. TAITANO**
Commissioner

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15 **FRANCISCO T. GUERRERO**
Commissioner

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